

MARCH 2024

MONTHLY LEGAL UPDATE

I. LABOR

ENTITLEMENT UPON TERMINATION OF EMPLOYMENT CONTRACT

On 21 March 2023, the Ministry of Labour and Vocational Training of Cambodia (MLVT) issued a Notification on the Entitlement upon Termination of Employment Contracts (the “Notification”). This notification aims to clarify the entitlement to which the employee is eligible after the employment contract is terminated.

The Notification specifies two circumstances of the termination including termination by employer and termination resulting from bankruptcy. The details are shown in the table below.

TABLE 1: TERMINATION BY EMPLOYER

Termination by Employer	
Fixed Duration Contract (FDC)	Undetermined Duration Contract (UDC)
1. Termination of the contract by the employer without valid reason or serious offenses	<ul style="list-style-type: none">- Unpaid salary;- Payment in lieu of the remaining annual leave;- Severence pay (at least 5%) of the paid salary within duration of the contract; and- Compensation (at least equivalent to the total salary by the end of the contract).
2. Termination of the contract due to serious offenses	
Fixed Duration Contract (FDC)	Undetermined Duration Contract (UDC)
<ul style="list-style-type: none">- Unpaid salary; and- Payment in lieu of the remaining annual leave.	

Meanwhile, the employee will be entitled to limited benefits if their termination is the result of bankruptcy of the company or enterprise.

TABLE 2: TERMINATION DUE TO BANKRUPTCY

Termination due to Bankruptcy	
Fixed Duration Contract (FDC)	Undetermined Duration Contract (UDC)
<ul style="list-style-type: none"> - Unpaid salary; - Payment in lieu of the remaining annual leave; and - Severence pay (at least 5%) of the paid salary within duration of the contract. 	<ul style="list-style-type: none"> - The unpaid salary; - Payment in lieu of the remaining annual leave; - The payment in lieu of the failure to give prior notice, if any; and - The seniority payment.

The Notification explicits that in the event that the employee's termination is brought about by the company's bankruptcy, they will not be entitled to any compensation. This is due to the fact that this type of termination has no impact on the employee's moral character and does not mislead regarding their output or efficiency. It also confirms that terminations such as separate termination and collective terminations have an adverse effect on the employee's integrity, reputation, and perception of the employee's skills, output, and morality.

II. TAX

PATENT TAX RATES

On 11 March 2024, the Royal Government of Cambodia issued a Sub-decree on Patent Tax which aim to determine the patent tax rates which is applicable to the taxpayers who operate their business activities in Cambodia. The following are the rates for patent tax:

- Small taxpayers shall pay an annual patent tax of 400 000 Riels (Approx. USD 100)
- Medium taxpayers shall pay an annual patent tax of 1 200 000 Riels (Approx. USD 300)
- Large taxpayers shall pay an annual patent tax of 3 000 000 Riels (Approx. USD 750) and 5 000 000 Riels (Approx. USD 1,250) if the turnover is more than 10,000 million Riels (Approx. USD 2.5 million).
- The above taxpayers, which have begun their business operations in the last six months of the year, shall pay half of the annual patent tax.

ANNUAL TAXABLE INCOME AND MONTHLY TAX ON SALARY

On 11 March 2024, the Royal Government of Cambodia issued a Sub-decree on Annual Taxable Income and Monthly Tax on Salary which is applicable to monthly salary of resident employee, taxable income of sole proprietorship and dividend of the shareholder of the partnership which is not a legal entity effective from the date of this Sub-decree.

Monthly Tax on Salary

The resident employee is subject to the following tax rates:

TAX BRACKETS OF MONTHLY TAX ON SALARY	RATE
From 0 – 1,500,000 riels (<i>Approx. 0 – USD 375</i>)	0%
From 1,500,001 – 2,000,000 riels (<i>Approx. USD 375⁺ – USD 500</i>)	5%
From 2,000,001 – 8,500,000 riels (<i>Approx. USD 500⁺ – USD 2,125</i>)	10%
From 8,500,001 – 12,500,000 riels (<i>Approx. USD 2,125⁺ – USD 3,125</i>)	15%
Above 12,500,000 riels (<i>Approx. above USD 3,125⁺</i>)	20%

The amount of 150 thousand Riels (approx. USD37.5) shall be deducted from the above basis of calculation for each child that the resident employee has and/or the case that the employee is having a spouse doing housework.

Taxable Income

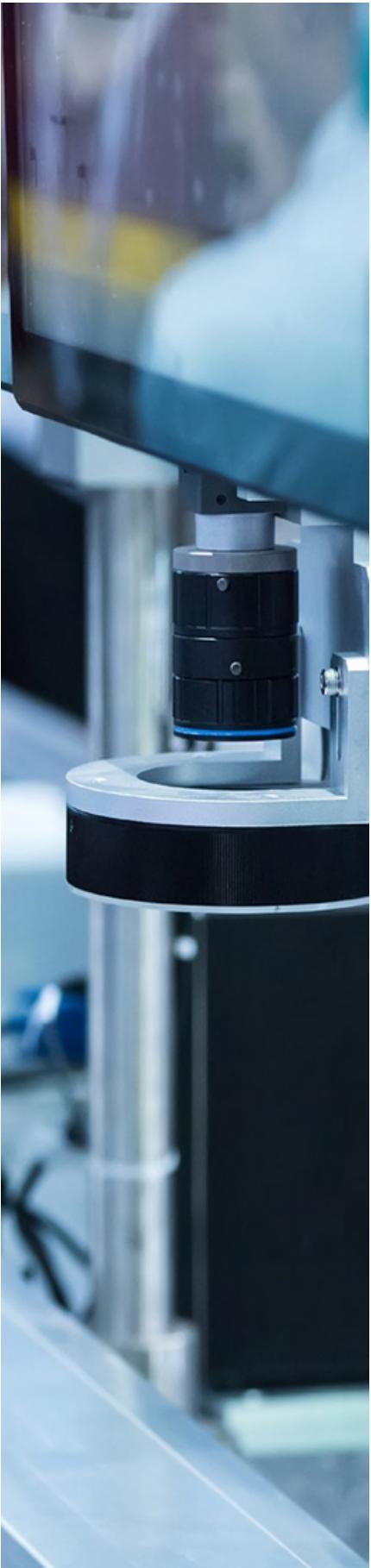
The followings are the rates for taxable income of sole proprietorship and dividend of the shareholder of the partnership which is not a legal entity:

TAX BRACKETS OF ANNUAL TAXABLE INCOME	RATE
From 0 – 18,000,000 riels (<i>Approx. 0 – USD 4,500</i>)	0%
From 18,000,001 – 24,000,000 riels (<i>Approx. USD 4,500⁺ – USD 6,000</i>)	5%
From 24,000,001 – 102,000,000 riels (<i>Approx. USD 6,000⁺ – USD 25,500</i>)	10%
From 102,000,001 – 150,000,000 riels (<i>Approx. USD 25,500⁺ – USD 37,500</i>)	15%
Above 150,000,00 riels (<i>Approx. above USD 37,500⁺</i>)	20%

TAX INCENTIVES ON EDUCATION SECTOR

The Ministry of Economy and Finance issued a Prakas on Tax Incentives on Education Sector on 20 March 2024 which aims to foster the development of human resources and vocational training in Cambodia.





Educational Institutions

The Educational Institutions eligible to the incentives under this Prakas include public and private institutions which solely provide education services from kindergarten to higher education as well as the professional and technical training (“Educational Institutions”).

Tax Incentives

The Educational Institutions is entitled to the following incentives effective from 01 January 2024 to the end of 2028:

- Exemption on tax on income, prepayment of tax on income, and minimum tax;
- Exemption on value-added tax (VAT) for the rendering of education service and other supply of goods or services serving educational purpose; and
- Exemption on withholding tax obligation such as (i)- other services including management, consultant, or similar services, and (ii)- interest and royalty.

Obligations of Educational Institutions

The Education Institutions is required to fulfill the following obligations:

- Tax registration with tax administration;
- Filing for tax return with tax administration monthly and annually as per the pre-determined formalities, schedules, and locations;
- Proper bookkeeping as per the existing law and regulations; and
- Submission of independent audited financial reports to tax administration for the Education Institutions whose income is more than 4 billion Riels (approximately 100 thousand USD).

Other Tax Obligations

The Educational Institutions is required to file for tax return and pay the withholding tax on location rental tax, salary tax, immovable property tax, patent tax, and other taxes and duties with respect to the tax law and regulations.

PUBLIC LIGHTNING TAX

On 20 March 2024, the Ministry of Economy and Finance issued a Prakas on Public Lightning Tax which is applicable to the supply of alcohol and cigarette products either produced or imported to Cambodia effective from 01 April 2024.

Tax Rate and Tax Payment

The rate of public lightning tax is 5% of the basis for calculation. It is calculated based on the supply price on the invoice including other duties except VAT and public lightning tax itself. This tax shall be paid once after the first supply of the product or after the production, import, or refining of the product in Cambodia. The supply rule of VAT shall be applicable to this tax. The public lightning tax shall be paid no longer than the 20th of the following month.

Obligation of Taxpayer and Its Authorized Representative

The taxpayer shall be a taxpayer under self-declaration regime. The authorized representative of the taxpayer shall have the following obligations:

- Inform the General Department of Taxation (GDT) with the power of attorney, production or import contract with the taxpayer prior to the production or import;
- Cease the production or import upon the notice from GDT on the non-compliance of the taxpayer; and
- Shall be considered as a taxpayer and responsible for tax declaration for the non-compliances in point (i) and point (ii) above.

SUSPENSION OF PREPAYMENT OF INCOME TAX FOR ENTERPRISES IN TEXTILE SECTOR

On 08 February 2024, the Ministry of Economy and Finance issued Prakas on the Suspension on the Prepayment of Tax on Income of Enterprises in the Textile Sector which is applicable to qualified investment project (QIP) in textile sector whose income tax exemption is expired.

Suspension on the Prepayment of Income Tax

The textile enterprises under this Prakas shall be exempted from the monthly prepayment of tax on income until the end of 2025.





Conditions for Obtaining the Suspension of Prepayment of Tax on Income

The enterprises are required to fulfil the following conditions to obtain the tax incentives:

- Proper bookkeeping with respect to tax, accounting and auditing law and regulations;
- Filing tax return and payment of other taxes and duties as per the tax law and regulations; and
- Submission of annual independent audited report to the tax administration.

In the case of non-compliance to the above obligations, such enterprises shall be removed from the entitlement to this tax incentive and shall be subject to various penalties as per the existing law.

TAX ON RENTAL OF IMMOVABLE PROPERTY

The Ministry of Economy and Finance issued a Prakas on Tax on Rental on Immovable Property on 20 March 2024 which is applicable to the owner or the assignee which is not the taxpayer under self-declaration regime who rent the immovable property in Cambodia effective from the date of this Prakas.

Immovable Property

Immovable Property under this tax refers to (i)- building and construction such as house, factory, hotel, office, and its annex (ii)- machine attached to the industrial entity, (iii)- commercial facilities, on-site industry, large building, or warehouse, (iv)- movable house for residence or business, and (v)- vacant land.

Tax Rate and Tax Payment

The rate of immovable property rental tax is 10% of the gross rental fee. It is calculated based on the gross monthly rental fee of the immovable property based on the lease agreement with respect to the market price and the actual gross rental fee received by the owner or the assignee. The tax shall be paid with the tax administration at the geographical location of the property no later than

- 20th of the following months of each month for monthly rental fee; or
- 20th of the following months if the payment schedule is more than one month.



Lessor Obligations

The owner or the assignee is required to fulfill the following obligations:

- register with the tax administration within 15 days upon the execution of the lease agreement or upon its amendment;
- provide written notice to tax administration within 15 days after lease termination; and
- issue receipt of payment when receiving the rental fee.

Exception

This tax on rental of immovable property is not applicable to the governmental institutions, embassy, consular, international organization, non-profit association or organization, taxpayer under self-declaration regime, and the case of gross rental fee less than 500 thousand Riels (approximately USD125) as details in article 6 of this Prakas.

TAX INCENTIVES FOR ENTERPRISES IN TOURISM SECTOR

On 08 February 2024, the Ministry of Economy and Finance issued a Prakas on Tax Incentive for Enterprises in Tourism Sector which aims to restore tourism sector in Cambodia. This Prakas is applicable to tax-registered tourism enterprises, including hotels, guesthouses, restaurants, and travel agencies operating in Phnom Penh, Siem Reap, Sihanoukville, Kep, and Kampot from the date of this Prakas.

Tax Incentives

The tourism enterprise, including hotels, guesthouses, restaurants, and travel agencies in Siem Reap province, is entitled to the following tax incentives:

- Exemption from monthly tax return except VAT and accommodation tax from October 2023 to the end of June 2024.
- Exemption from annual tax on income of 2023 (The paid prepayment of tax on income can be used as a tax credit to offset annual tax on income of 2024)
- Exemption on all tax arrears prior to 2023 including tax, additional tax, interest, 25% additional tax, and continuous compounded interest.
- Exemption from tax audit for the period from 2020 to 2023.

Enterprises in the tourism sector, including hotels, guesthouses, restaurants, and travel agencies located in Phnom Penh, Sihanoukville, Kep, and Kampot provinces, are exempted from tax audits for the period from 2020 to 2023.

Obligations of Enterprises

Enterprises entitled to tax incentives have the following obligations:

- Medium and large taxpayer is required to file monthly tax return on e-Filing system and file annual income tax return using ToI e-Filing system.
- Small taxpayers is required to file tax returns according to the format, time, and place determined by the tax administration, or they can file tax returns through the GDT Tax Prefiling App.
- The taxpayer is required to have proper bookkeeping as per the tax law and regulations.

III. OTHER

LICENSES FROM REAL ESTATE BUSINESS AND PAWNSHOP REGULATOR

On 21 March 2024, the Real Estate Business and Pawnshop Regulator (“RPR”) issued a notification on the obligation to apply for licenses of residential development business, condominium development business, land plot development business, real estate service business, pawnshop business, and transfer-as-security (chattel mortgage) business from RPR. Any business operation without license is an offend which is subject to administration sanction and punishment as per the applicable law.



*This Monthly Legal Updates is a general information only and is not considered as legal advice or opinion. If you require any further information or have any questions, please contact **Mr. HOUN Vannak**, managing partner of RHTLaw Cambodia.*

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